

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

MARQUEZ HALL,

Plaintiff,

v.

Case No. 2:22-cv-11528

CORRECTIONS OFFICER KEETON,

District Judge
Gershwin A. Drain

Defendant.

**ORDER ACCEPTING AND ADOPTING REPORT AND
RECOMMENDATION TO DISMISS COMPLAINT WITH PREJUDICE
[#29] AND TERMINATE THE PENDING MOTION [#24] AS MOOT**

Plaintiff Marquez Hall (“Plaintiff”) was an inmate in the custody of the Michigan Department of Corrections (“MDOC”) when he initiated this action *pro se* against Corrections Officer Keeton and the MDOC on June 29, 2022. ECF No. 1. When he filed this suit, Plaintiff was warned of his obligation to keep his address updated with the Court. ECF No. 5.

The Complaint asserts an Eighth Amendment claim under 42 U.S.C. § 1983, alleging that Plaintiff’s right to be free from cruel and unusual punishment was violated when he “was maliciously and sadistically maced by Officer Keeton.” *Id.* at PageID.5. The Court partially dismissed Plaintiff’s claim on January 30, 2023, finding that his official capacity claim and his claim against the MDOC could not

survive sovereign immunity and failed to state a justiciable claim. ECF No. 7. Remaining is Plaintiff's individual claim against Officer Keeton ("Defendant"). This case was referred to Magistrate Judge Curtis Ivy, Jr. for all pretrial matters on June 5, 2023. ECF No. 15.

Defendant filed a Motion to Compel Discovery on December 29, 2023, arguing that Plaintiff had failed to submit complete responses to interrogatories and requests for production of documents. ECF No. 24. Judge Ivy ordered Plaintiff to respond to Defendant's Motion, but the Order was returned as undeliverable on February 7, 2024. ECF No. 26. The return envelope noted that Plaintiff had been released from prison on parole or had been otherwise discharged. *Id.* On February 15, 2024, Judge Ivy ordered Plaintiff to show cause why the case should not be dismissed for failure to update the Court of his changed address. ECF No. 27. The Order warned that "[f]ailure to timely or adequately respond to this Order to Show Cause will result in such a recommendation [to dismiss the action]." *Id.* This Order was also returned as undeliverable. ECF No. 28. Plaintiff has not since addressed the Show Cause Order or updated the Court of his new address.

Judge Ivy issued a Report and Recommendation on March 26, 2024, recommending that the Court sua sponte dismiss Plaintiff's action with prejudice for failure to prosecute and/or comply with an Order. ECF No. 29, PageID.143. Plaintiff did not file an objection, and the time to do so has expired. 28 U.S.C. § 636(b)(1)(C).

Upon review of the record and the Report and Recommendation, the Court finds that Judge Ivy reached the correct conclusion. Therefore, the Court **ACCEPTS AND ADOPTS** the March 26, 2024 Report and Recommendation (ECF No. 29) as this Court's findings of fact and conclusions of law. Plaintiff's Complaint is hereby **DISMISSED WITH PREJUDICE**, and Defendant's pending Motion to Compel (ECF No. 24) is **DENIED AS MOOT**.

IT IS SO ORDERED.

Dated: May 23, 2024

/s/ Gershwin A. Drain
GERSHWIN A. DRAIN
U.S. DISTRICT JUDGE

CERTIFICATE OF SERVICE

Copies of this Order were served upon attorneys of record on May 23, 2024, by electronic and/or ordinary mail.

/s/ Teresa McGovern
Case Manager